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SUBJECT: RESPONSE TO THE OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS REGARDING HRC RESOLUTION 11/3 - GENEVA
LOG 67-2009

¶1. Action request: Mission Geneva is requested to convey to the Office of the High Commissioner for Human Rights (OHCHR), the text of the letter in paragraph 3. This is in response to Mr. Ibrahim Wani's letter of July 10, 2009, requesting input from the United States on Human Rights Council Resolution 11/3 on "Trafficking in persons, especially women and children."

¶2. In paragraph 10 of the above mentioned resolution, the HRC requests the Office of the High Commissioner on Human Rights to "collect the views of member states on the Recommended Principles and Guidelines on Human Rights and Human Trafficking, as well as on experiences and emerging good practices while applying them." A compilation of these views will be made available in a report at the next Human Rights Council.

¶3. Begin text of letter.

Mr. Ibrahim Wani
Office of the High Commissioner for Human Rights
Geneva, Switzerland

Dear Mr. Wani,

The United States welcomes the opportunity to respond to the July 10, 2009 letter of the United Nations Office of the High Commissioner for Human Rights. This response briefly highlights some of our many efforts as well as some of our challenges in combating human trafficking. For more information, please go to [www.usdoj.gov/olp/human trafficking.htm](http://www.usdoj.gov/olp/human%20trafficking.htm) to access the Attorney General's Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons.

Question 1: Has your Government used the Recommended Principles and Guidelines on Human Rights and Human Trafficking in developing and implementing anti-trafficking strategies and activities within your country? If so, has your government found the application of a human rights-based approach to combating trafficking effective in your anti-trafficking efforts?

U.S. policy and legislation is largely consistent with the Recommended Principles and Guidelines on Human Rights and Human Trafficking. The centerpiece of U.S. Government efforts to eliminate trafficking in persons is the Trafficking Victims Protection Act of 2000 (TVPA) (Public Law 106-386), which took effect on October 28, 2000, and was further amended in 2003, 2005, and 2008. This law criminalized all forms of human trafficking with strong penalties. Additionally, it provided a range of protections for foreign and domestic victims of trafficking and it expanded the U.S. government's domestic and international assistance efforts. Based on our experience over the last several years we have found that pursuing a victim-centered approach is essential to an effective national response to human trafficking.

Question 2: In applying the Recommended Principles and Guidelines on Human Rights and Human Trafficking, what are

the experiences and emerging good practices which helped to improve the measures taken to prevent trafficking, and protect and support victims of trafficking? How has your Government measured success in combating human trafficking from a human rights perspective thus far?

The United States has federal, state and local taskforces involved in combating human trafficking. The United States established the President's Interagency Taskforce on Trafficking in Persons, which is supported by the Senior Policy Operating Group, to oversee our national anti-trafficking efforts. Since 2004, the U.S. Department of Justice has funded 45 regional anti-trafficking taskforces in 25 states, that bring together federal, state, and local law enforcement authorities, other governmental agencies, and non-governmental victim service providers, to engage in a proactive, coordinated outreach effort to identify more victims and strengthen trafficking investigations and prosecutions. The U.S. also conducts trainings, technical assistance, and, in some cases, financial support to anti-trafficking coalitions in over 25 localities to conduct public awareness activities and mobilize local resources. An additional 28 unfunded regional task forces were separately created to focus specifically on the rescue and restoration of domestic child victims of prostitution, which has resulted in 818 children being rescued and restored since that program began in 2003.

PREVENTION OF TRAFFICKING IN PERSONS

In 2004, the U.S. Government, through the Department of Health and Human Services (HHS), launched the &Rescue and Restore Victims of Trafficking⁸ campaign as a national effort to raise awareness about human trafficking through the media, coalition building, and training. This campaign also includes the National Human Trafficking Resource Center (NHTRC), a national telephone and e-mail hotline that provides assistance to victims of trafficking, law enforcement, social services providers, and Good Samaritans 24 hours a day, 7 days a week. From December 2007 through September 2008 alone, the NHTRC received a total of 4,147 calls, including 553 tips regarding possible human trafficking incidents, 398 requests for victim care referrals, 949 calls seeking general human trafficking information, and 167 requests for training and technical assistance. Of calls referencing potential trafficking situations, 40 percent referenced trafficking of foreign nationals, while nearly 18 percent referenced trafficking of U.S. citizens or Legal Permanent Residents (LPR).

HHS also initiated a U.S. Domestic Trafficking in Persons Notification Pilot Program to increase public awareness of and victim assistance for U.S. citizen and LPR trafficking victims. The Notification Pilot Program provided suspected trafficking victims with information regarding benefits and services for which U.S. citizens may be eligible, simply by virtue of their citizenship. As a result, eight participating NGOs identified 240 suspected U.S. domestic trafficking victims, all of whom received HHS Notification. Protection and Support for Trafficked Persons

In the U.S. experience we have found that restoring victims, both physically and psychologically, provides the added benefit of enabling them to more fully participate in a successful prosecution of the people who exploited them. Victims are the most important source of evidence. U.S. juries are far more likely to convict a trafficker when they can hear the victim testify firsthand as to the harm they suffered at the hands of their perpetrators. Using the victim-centered approach, U.S. law enforcement has continued to earn the trust of trafficking victims and empowered them to participate in the investigation and successful prosecution of the traffickers.

There are trained professional victim-witness specialists and coordinators in every federal investigative and prosecutorial office, as well as in nearly every state jurisdiction, to facilitate communication between law enforcement and victim-witnesses, and to facilitate the effective implementation of a victim-centered approach. It is the duty of these coordinators to facilitate the provision of services to the victim, and to minimize, insofar as possible, unnecessary pain and inconvenience to victims and witnesses.

Foreign child victims of trafficking in persons, and foreign adult victims who cooperate with reasonable requests for assistance from U.S. law enforcement authorities, are eligible for benefits and services under any federally funded program to the same extent as an individual who is admitted to the United States as a refugee. Victims may be eligible to receive cash assistance; medical, dental and mental health services; food vouchers; housing assistance; job search assistance; career counseling; and occupational skills training. Unaccompanied foreign child victims of trafficking are eligible for specialized foster care and receive comprehensive services, including intensive case management, safety planning, medical and mental health services, independent living skills, career/college counseling, English language training, referral to pro bono immigration legal services, social integration, cultural and religious preservation, and family reunification services, if appropriate. Similar benefits and services are available to certain family members who are legally entitled to join them in the United States. From fiscal year (FY) 2001 through FY 2008, 1,696 foreign victims of trafficking received certification (adults) or letters of eligibility (for children) from the Department of Health and Human Services (HHS) to receive the benefits described above. Victims awaiting certification are eligible to receive immediate federal assistance through the HHS Per Capita Services contract, which provides anytime, anywhere case management services to pre-certified and certified victims. Currently, the contract has 105 subcontracts with NGO service providers in 127 locations across the United States.

The United States has a long record of working collaboratively with non-governmental service organizations on a variety of victim issues. The TVPA requires that U.S. federal agencies addressing trafficking issues engage in consultation and advocacy with governmental and nongovernmental organizations. Many of the services offered to victims are rendered through grants and contracts from the federal government to non-governmental service organizations.

These grants and contracts totaled \$119 since 2004 when we began tracking the funding levels for these domestic programs.

U.S. federal law provides protection for trafficking victims by prohibiting the release to the public of the names and identifying information of trafficked persons and their family members when the trafficking victims, safety is at risk or they face a danger of additional harm. Federal law also provides that all crime victims have the right to be treated with fairness and with respect for the victim's dignity and privacy. Department of Justice officials are barred from revealing any private victim information to anyone who does not need to know it.

Federal law also permits a federal judge to close a courtroom to all who do not have a direct interest in the case when a child testifies or if the judge finds that requiring the child to testify in open court would cause substantial psychological harm to the child or would result in the child's inability to effectively communicate. Federal courts are required to keep confidential any documents in connection with a case involving a child victim or witness that disclose identifying information about the child.

U.S. federal law provides mandatory restitution for trafficking victims. Victims may also be eligible for compensation from state crime victim compensation funds. Federal law also allows for seizure and forfeiture of a defendant's assets that derive from illegal trafficking activities. Finally, federal law specifically authorizes trafficking victims to file civil lawsuits in federal court to recover damages against traffickers.

Immigration relief for foreign victims of trafficking
The U.S. provides three types of immigration relief to foreign trafficking victims. First, federal law enforcement officials can seek Continued Presence⁸ for victims to remain in the U.S. temporarily if they may be potential witnesses in an investigation or prosecution but lack legal immigration status. An extension can be requested by federal law enforcement. Since FY 2001, approximately 1,599 victims received continued presence. Second, trafficking victims can apply for a T nonimmigrant visa for themselves and

certain members of their family, which would allow them to live and work legally in the U.S for four years. Since FY 2001, 1,544 victims and 1,404 family members received the T visa. Third, certain crime victims, including victims of trafficking and victims of certain other crimes, who have suffered substantial physical or mental abuse while in the United States may be eligible for a U nonimmigrant visa, which would also allow victims to live and work legally in the United States for four years. If law enforcement needs further assistance from a victim-witness, an extension can be requested. The Department of Homeland Security recently published a regulation that will enable T and U nonimmigrants to seek legal permanent residence in the United States.

Repatriation of victims of trafficking in persons
U.S. federal officials have assisted in maintaining housing and victim benefits pending repatriation of witnesses in trafficking investigations. Federal officials also have assisted in the repatriation process itself by liaising with foreign governments and NGOs to facilitate the victims, return and to ensure that the victims are not re-trafficked. The U.S. Department of State,s Bureau of Population, Refugees, and Migration (PRM) funds the Return, Reintegration, and Family Reunification Program for Victims of Trafficking, which is carried out by the International Organization for Migration. Since its inception in 2005, PRM,s program has benefitted 250 persons from 35 countries.
Question 3: In applying the Recommended Principles and Guidelines on Human Rights and Human Trafficking, what, if any, are the challenges your Government has experienced in achieving results to combat human trafficking?

The Department of Health and Human Services funded a literature review titled &Human Trafficking Into and Within the United States⁸
<http://aspe/hhs.gov/hsp/07/Humantrafficking/litRev/index.shtml> which includes a section on challenges in accessing and providing services. Challenges include: availability of translators, especially if a victim,s native language is unique; complications inherent in building trust between a traumatized victim and his/her case manager; victims, complex needs especially when a group of victims strains an NGO service provider,s capacity; and ensuring that all levels of law enforcement are trained to identify and protect potential victims, rather than treat them as criminals.

14. Department appreciates Mission's assistance.
CLINTON